



Office of Performance Evaluations Idaho Legislature

Report 06-07F

August 2006

Higher Education Residency Requirements Follow-up Report

In January 2004, we completed a review of the residency determination process at Idaho's four-year higher education institutions: Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho. Our report contained three recommendations to encourage uniform application of residency requirements, improve the accuracy of student residency decisions, and clarify legislative intent. In this first follow-up review, we found the State Board of Education and institutions have been slow to address report recommendations, but have recently begun taking steps to make needed changes. Also, the Legislature has not taken action to further clarify statutory requirements pertaining to student residency.

Background

Idaho Code outlines nine criteria for determining whether students at Idaho's four-year higher education institutions qualify for residency.¹ For instance, students can qualify for residency if they graduate from an Idaho high school and enroll in college the following term; if one or more of their parents has maintained a domicile in Idaho for at least 12 months preceding enrollment; or if they have resided in the state for 12 months and have

taken steps to establish a domicile in Idaho for purposes other than education. The determination of a student's residency status significantly affects how much students must contribute toward the cost of their education. We estimated that nonresident students typically pay between \$23,000 and \$27,000 more than Idaho residents for a four-year degree.

Lawmakers requested a review of the residency determination process because of concerns about whether (1) institutions were applying residency requirements accurately and uniformly; and (2) the State of Idaho had been subsidizing the education of nonresident students who were inappropriately granted residency.

Current Status

Our report offered three recommendations to encourage uniformity in the residency determination process, improve the accuracy of residency decisions, and clarify legislative intent. The State Board of Education's assessment of the efforts made by the board and institutions to implement report recommendations is provided in appendix A. Our assessment of these implementation efforts begins on the next page.

¹ IDAHO CODE § 33-3717B(1).

Establishing Uniform Standards for Residency Determinations

Idaho Code requires the State Board of Education to “adopt uniform and standard rules and regulations to determine the residency status of any student and to establish procedures for the review of that status.”² In our 2004 report, we found the board had not established uniform rules to guide the residency determination process. Instead, board rules directed *each institution* to “develop its own procedures to determine the residency status of applicants.”³ The lack of direction from the board resulted in inconsistencies in the interpretation and application of residency requirements by the institutions. We recommended the State Board of Education address the lack of uniformity by establishing rules that apply to all institutions.

The board reports it completed some preliminary work in 2004 as it prepared to develop rules for the residency determination process. This included working with the Attorney General’s office to clarify the process used by the institutions to determine residency and gathering information from each of the institutions and from national education organizations. However, following these initial efforts, the board’s progress toward implementing this recommendation slowed. Nevertheless, the board reports that it will now draft proposed rules and expects to submit rule amendments for consideration by policymakers during the 2008 legislative session. Therefore, we are assessing the implementation of this recommendation as **in-process**.

Establishing Procedures to Ensure Accurate Residency Decisions

In our 2004 report, we found the institutions had not established adequate controls over the residency determination process. As a result, institutions incorrectly awarded residency to a few out-of-state students and made residency decisions based on insufficient information for many other students. We recommended the institutions implement quality assurance measures to identify high-risk residency determination cases for further review and ensure that all residency factors identified in statute and rule are fully considered in the decision process.⁴

The board reports the institutions have improved their individual processes based on our 2004 report. However, information provided by the board suggests that procedures have changed little since the report’s release.⁵ Policies and forms provided by the board do not show that the institutions have established procedures to regularly review high-risk cases to verify if residency decisions were appropriate.

The board now plans to work with the institutions to develop a standardized residency application form and expects the form to be completed by fall 2006. Adopting a standardized form to collect additional information would be a positive step toward assuring that residency decisions are made consistently and accurately. Because of these recent efforts, we are assessing the implementation of this recommendation as **in process**.

² IDAHO CODE § 33-3717B (4).

³ IDAHO ADMIN. CODE, January 1993, IDAPA 08.01.04.101.

⁴ High-risk cases are those in which students claim residency although there are indicators (such as an out-of-state mailing address on the application form) that suggest they may be nonresidents.

⁵ The board provided copies of residency review policies from two institutions and residency affidavits used at the other institutions. Each of these documents had effective dates *prior* to the release date of our 2004 report.

Clarifying Statutory Requirements for Residency

In 1992, legislators amended Idaho's residency law to make it more difficult for full-time nonresident students to obtain residency in Idaho. However, in a legal analysis conducted as part of our 2004 review, the Office of the Attorney General concluded that statute continues to allow full-time students to obtain residency after living in Idaho for 12 months and taking minimal steps to demonstrate their intent to make Idaho their permanent home. As a result, Idaho's residency laws were found to be less stringent than in most neighboring states.

We suggested several options lawmakers could consider to clarify and strengthen Idaho's residency statute:

- Require students to establish and maintain a domicile in Idaho for 12 months to qualify for residency
- Establish that full-time non-resident students are presumed to be in the state primarily for education purposes unless they clearly demonstrate they are primarily engaged in activities other than those of a student
- Clarify that students may only qualify under their parent's residency if they are a financial dependent of the resident parent and are under a specified age

While the statute was restructured in 2005, the requirements for students to obtain residency have not been changed. Therefore, this recommendation remains **open for legislative consideration**.

We appreciate the cooperation and assistance we received from the Board of Education in conducting this follow-up review. Ned Parrish and AJ Burns of the Office of Performance Evaluations conducted the review.

Joint Legislative Oversight Committee (JLOC)

Sen. Shawn Keough, Co-chair
Sen. John Andreason
Sen. Bert Marley
Sen. Kate Kelly

Rep. Margaret Henbest, Co-chair
Rep. Maxine Bell
Rep. Debbie Field
Rep. Donna Boe

Office of Performance Evaluations

Rakesh Mohan, Director

Appendix A

Board of Education's Self-assessment of Implementation Efforts



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August 15, 2006

Mr. Rakesh Mohan
Mr. Ned Parrish
Office of Performance Evaluations
PO Box 83720
Boise, ID 83720-0055

Re: Follow-up Review of the Report on Higher Education Residency Requirements

Dear Rakesh and Ned:

Thank you for the opportunity to update the Office of Performance Evaluation (OPE) on the progress the State Board of Education (Board) has made on the recommendations set out in the January 2004 Report on Higher Education Residency Requirements.

Listed below are each of the recommendations and the Board's progress on each recommendation:

Recommendation 2. – The State Board of Education should address the lack of uniformity in determining residency and other related issues by:

a. Amending its administrative rules to provide a uniform residency determination process.

The SBOE has been working with the higher education institutions to more clearly define the uniform residency determination process. While we hope to be able to adopt rules to be submitted for the 2007 legislative session, because of timeframes for Board meetings, it is most likely that these rules will be submitted to the legislature for review in the 2008 legislative session.

b. Modifying the statewide Application for Admission form to conform to state law and rules.

The SBOE has worked very closely with all the four year institutions to develop a single application form for use by incoming students.

The applications are carefully scrutinized prior to admission. Any applications that indicate the prospective student may be from out of state are forwarded for further review. At this time, there are different practices at each of the institutions on how those applications are handled. The SBOE is currently working with institutions to develop a second questionnaire that all institutions would be required to use in determining residency eligibility. The questionnaire will be completed in the fall of 2006.

c. Setting nonresident fees for part-time students in the same manner as for full-time students.

Once rules are passed, the SBOE will work with the institutions to ensure that part-time nonresident fees are set in the same manner as full time fees. The SBOE may need to clarify its policies or draft a new policy for further guidance once legislation and rules are passed.

3. Boise State University, Idaho State University, Lewis-Clark State College, and the University of Idaho should improve their residency determination process by:

a. Implementing quality assurance measures that identify high-risk residency determination cases for further review.

After OPE's initial review, the higher education institutions all implemented further checks and balances within their offices. If residency is in question, further documentation is requested. That documentation must be signed, and in some cases notarized. The supporting documentation then becomes an official document and is utilized to resolve questions of residency.

b. Collecting information that addresses all residency factors listed in statute and rules, and basing residency determinations on full consideration of these factors.

See answer to Recommendation 2.b. above.

Please let me know if you have any further questions or if I can be of any assistance.

Sincerely,



Karen L. Echeverria
Deputy Director